

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

DEBORAH BARONE, Plaintiff, v. ETHICON INC. and JOHNSON & JOHNSON, Defendants.	Civil Action No. 4:20-cv-03950
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**PLAINTIFF DEBORAH BARONE'S
AGREED MOTION TO CONTINUE DOCKET CALL SETTING
AND AGREED MOTION FOR SPECIAL TRIAL SETTING**

Plaintiff, Deborah Barone, files this agreed motion asking the Court to (1) continue the Court's Docket Call, currently scheduled for January 24, 2022, and (2) at the rescheduled docket call¹, set this case for a special trial setting so that the parties have at least three months' notice of the trial date from the docket call. In support thereof, Plaintiff would show as follows:

A. January 24, 2022 Docket Call

This case is currently set for a Docket Call on January 24, 2022. (ECF #133) The joint pretrial order is due to be filed on December 17, 2021. *Id.*

Plaintiffs' counsel, Alex Barlow, is also lead counsel in another transvaginal mesh case currently set to begin trial on January 18, 2022 in the Central District of California. (*Terri Freeman*

¹ In keeping with this Court's procedures, the parties request the trial date be selected during the docket call to ensure that the parties are present with the Court to confer on particular dates.

et al v. Ethicon, Inc. et al, 2:20-cv-10661-CBM-SK). Therefore, on the day currently set for Docket Call in this case, Plaintiffs' counsel must also be in Los Angeles trying a different case.

Despite the scheduling conflict preventing an in-person appearance, Plaintiff would not need to adjust the date for filing of the joint pretrial order. The parties have already made arrangements for the timely satisfaction of the Court's requirements in that regard. Therefore, the Docket Call could be reset for another date without significantly adjusting the forward progress of this case towards final disposition.

B. Special Setting for Trial Date

Additionally, Plaintiff requests that at the rescheduled docket call the Court specially set the trial such that the parties have at least three months advanced notice of the trial date. Both sides in this case have designated a number of physician experts. Unsurprisingly, those physicians have busy and varied schedules which will make securing in-court appearances difficult if the parties do not have sufficiently advanced notice of the trial date. Without such notice, the parties would be forced to rely heavily on preserved, videotaped deposition testimony, which this Court's procedures express a preference against.

For Plaintiff in particular one of her primary experts, Dr. Daniel Elliott, needs at least three months advanced notice to be able to appear in person at the trial. Specifically, Dr. Elliott is a practicing surgeon and gynecologist at the Mayo Clinic in Minnesota and his treatment schedule is set three months in advance. In order to keep his court appearance from interfering with his treatment of patients, and to avoid a scheduling conflict which would preclude his in-person appearance, Plaintiff requests sufficiently advanced notice to place the trial on his calendar that far out.

Conclusion & Prayer

For the foregoing reasons, Plaintiff, Deborah Barone, asks that the Court (1) continue the Court's Docket Call, currently scheduled for January 24, 2022, and (2) from the rescheduled docket call, set this case for a special trial setting so that the parties have at least three months' notice of the trial date.

Dated: October 5, 2021.

Respectfully submitted,

SHRADER & ASSOCIATES, LLP

/s/ Alex Barlow

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CERTIFICATE OF WORD COUNT

Pursuant to Hon. Charles R. Eskridge III's Court Procedures, section 18(c), I hereby certify this brief contains 638 words.

CERTIFICATE OF SERVICE

I hereby certify that on October 5, 2021, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the CM/ECF participants registered to receive service in this MDL.

/s/ Alex Barlow

Alex Barlow